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Massachusetts Office on Disability

DISABILITY RIGHTS LAWS IN MASSACHUSETTS



Sidewalk Sam



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Last revised July 2005

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TABLE OF CONTENT

| | |
|---|-----|
| INTRODUCTION | iii |
| DISABILITY LAWS IN MASSACHUSETTS | 1 |
| ABUSE / NEGLECT / TREATMENT CONDITIONS | 1 |
| Massachusetts Disabled Persons Protection Act..... | 1 |
| Massachusetts Mental Illness or Mental Retardation, Rights of Persons Receiving Treatment Act..... | 1 |
| Civil Rights of Institutionalized Persons Act..... | 2 |
| ARCHITECTURAL ACCESS | 4 |
| Massachusetts Architectural Access Board..... | 4 |
| Federal Architectural Barriers Act..... | 5 |
| AUTOMOBILES & TRANSPORTATION | 7 |
| Americans with Disabilities Act, Title II: Transportation..... | 7 |
| Federal Air Carrier Access Act..... | 8 |
| Massachusetts Automobile Excise Tax Exemption..... | 9 |
| Massachusetts Automobile Sales Tax Exemption..... | 9 |
| Massachusetts Gas Station Law..... | 10 |
| Massachusetts Handicapped Parking Laws..... | 10 |
| Massachusetts Handicap Plate and Placard Law..... | 12 |
| Massachusetts White Cane Law..... | 14 |
| DISABILITY COMMISSIONS | 15 |
| Massachusetts Disability Commissions..... | 15 |
| EDUCATION | 17 |
| Massachusetts Early Childhood Intervention Law..... | 17 |
| Federal Individuals with Disabilities Education Act..... | 17 |
| Massachusetts Public Education Law, Ch. 766..... | 18 |
| Massachusetts Braille Literacy Law..... | 19 |
| Massachusetts Transitional Planning Services, Turning 22 (Commonly Known as Chapter 688)..... | 19 |
| EMPLOYMENT | 20 |
| Americans with Disabilities Act Title I: Employment..... | 20 |
| Federal Rehabilitation Act..... | 20 |
| Employment by the Federal Government: Section 501..... | 20 |
| Employment by Federal Contractors: Section 503..... | 21 |
| Massachusetts Employment Discrimination Law..... | 21 |
| EQUAL RIGHTS | 21 |
| Americans with Disabilities Act..... | 21 |
| Massachusetts Constitutional Amendment..... | 21 |
| Massachusetts Equal Rights Law..... | 22 |
| Massachusetts Executive Order 246..... | 22 |

| | |
|---|----|
| Federal Rehabilitation Act..... | 23 |
| Massachusetts Provision of Sign Language Interpreters In Court Proceedings..... | 25 |
| HATE CRIMES | 26 |
| Violations of Constitutional Rights; Criminal Penalties..... | 26 |
| Assault or Battery for Purpose of Intimidation; Weapons; Criminal Penalties..... | 27 |
| Civil Actions By Attorney General For Violations Of Constitutional And Legal Rights..... | 28 |
| Civil Damages For Civil Rights Violations..... | 28 |
| HOUSING | 29 |
| Federal Fair Housing Act..... | 29 |
| Massachusetts Housing Bill of Rights..... | 30 |
| Federal Pet Law..... | 31 |
| Massachusetts Property Tax Exemptions..... | 31 |
| Massachusetts Homestead Protection Act..... | 32 |
| PUBLIC PLACES & PROGRAMS | 33 |
| Americans with Disabilities Act..... | 33 |
| State and Local Government, Title IIA..... | 33 |
| Public Accommodations, Title III..... | 33 |
| Federal Rehabilitation Act: Entities Receiving Federal Funds, §504..... | 34 |
| Massachusetts Public Accommodations Law..... | 36 |
| SERVICE ANIMALS | 38 |
| Massachusetts Service Animal Law..... | 38 |
| Service Animal Training Laws..... | 38 |
| TELECOMMUNICATION AND TECHNOLOGY | 40 |
| Federal Telecommunications Act..... | 40 |
| Federal Rehabilitation Act, Access to Technology: §508..... | 41 |
| VOTING | 43 |
| Federal Voting for the Elderly and Handicapped Act..... | 43 |
| Mass. Secretary of State, Election Division Regulations..... | 43 |
| Help American Vote Act (HAVA)..... | 45 |
| WHEELCHAIRS | 46 |
| Massachusetts Wheelchair Lemon Law..... | 46 |
| ZONING | 46 |
| Massachusetts Zoning Law, Access Ramps..... | 46 |
| Massachusetts Zoning Laws, General and Community Residences..... | 46 |

INTRODUCTION

The Massachusetts Office on Disability (MOD) prepared this pamphlet. Founded in 1981, one of the goals of the Office is to increase awareness of the rights of persons with disabilities, both by persons with disabilities themselves and by the larger community.

Other goals of the Office include:

- The elimination of discrimination against persons with disabilities;
- The creation of a barrier free environment;
- The improvement of the state's services delivery system for persons with disabilities, and
- The creation of fully integrated and accessible education, housing, transportation and employment in the public and private sectors.

To achieve its goals, MOD engages in activities such as the following:

- Monitors the performance of state and local governments in order to improve the treatment of persons with disabilities;
- Operates an information and referral system, the Client Services Program, and advocates for the rights of individuals attempting to obtain services to which they are entitled and for those who are attempting to enforce their civil rights;
- Operates a Community Services Program which focuses on improving access to public and private facilities in the Commonwealth, and which works with many individuals, community organizations and municipalities to provide education and technical assistance to assure disability rights are enforced.

For further information about the Office on Disability, the details of the laws discussed in this pamphlet, or to obtain assistance in asserting your rights, please access the MOD

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Disability Laws in Massachusetts

ABUSE / NEGLECT / TREATMENT CONDITIONS

Massachusetts Disabled Persons Protection Act

G.L. c. 19c

This statute protects disabled persons, including persons with mental retardation, physical disabilities, and head injuries, who are between the ages of 18 and 59, and who, as a result of a disability, are dependent on others to meet their daily living needs. Anyone suspecting abuse can contact the Disabled Persons Protection Commission (DPPC). "Mandated reporters" (physicians, dentists, nurses, teachers, day care workers, etc.) must report cases of suspected abuse. After the suspected abuse is reported, the DPPC investigates allegations of abuse by caretakers only. In some cases, those investigations are referred to an agency within the Executive Office of Human Services for intervention and further investigation. After the investigation (which should be completed within 24 hours if the call is an emergency and 10 days if it is not) protective services are delivered.

For more information or to report a case of abuse:

Disabled Persons Protection Commission

50 Ross Way, Quincy, MA 02169

(617) 727-6465, (800) 426-9009

Website: <http://www.mass.gov/dppc/>

Massachusetts Mental Illness or Mental Retardation,

Rights of Persons Receiving Treatment Act

G.L. c. 123, § 23

(As Amended By Chapter 166 Of The Acts Of 1998 and Chapter 249 of the acts of 2000) Individuals receiving treatment for mental illness or mental retardation are entitled to certain rights and privileges, such as sending and receiving

mail, receiving visitors, using telephones and living in a humane psychological and physical environment.

G.L. c. 123, §12

Central to these rights is the limitation of the number of days people may be confined to a hospital without a court order.

Enforcement: Notice of the rights created under this law is to be prominently posted in all programs and facilities. Those notices include information about where and how to appeal violations of these rights.

Civil Rights of Institutionalized Persons Act

42 U.S.C. §1997, et seq.

The Civil Rights of Institutionalized Persons Act (CRIPA) authorizes the U.S. Attorney General to investigate conditions of confinement at State and local government institutions such as prisons, jails, pretrial detention centers, juvenile correctional facilities, publicly operated nursing homes, and institutions for people with psychiatric or developmental disabilities. Its purpose is to allow the Attorney General to uncover and correct widespread deficiencies that seriously jeopardize the health and safety of residents of institutions. The Attorney General does not have authority under CRIPA to investigate isolated incidents or to represent individual institutionalized persons. The Attorney General may initiate civil law suits where there is reasonable cause to believe that conditions are "egregious or flagrant," that they are subjecting residents to "grievous harm," and that they are part of a "pattern or practice" of resistance to residents' full enjoyment of constitutional or Federal rights, including Title II of the ADA and section 504 of the Rehabilitation Act.

Enforcement:

U.S. Department of Justice, Civil Rights Division

950 Pennsylvania Avenue, N.W.

Special Litigation Section - PHB

Washington, D.C. 20530

(877) 218-5228

ARCHITECTURAL ACCESS

Massachusetts Architectural Access Board – 1967 G.L. c. 22, § 13A

The Architectural Access Board (AAB) is a regulatory agency whose mandate is to develop and enforce regulations designed to make public buildings accessible to, functional for and safe for use by persons with disabilities. See 521 C.M.R. In addition to writing regulations, the Board decides on variance requests, issues advisory opinions and makes decisions on complaints. Local building inspectors are responsible for enforcing the regulations which are a specialized section of the Massachusetts Building Code. See 780 C.M.R.

The construction, renovation, remodeling, or alteration of a building or facility that is open to the public triggers the authority of the AAB. New construction must fully comply.

For renovation, remodeling, or alteration:

- The work being done must comply with the regulations.
- If the work done in any 36-month period is greater than \$100,000, the work being performed is required to comply. In addition, an accessible entrance is required. Where provided, public telephones, drinking fountains and rest rooms must also comply.
- If the work done in a 36-month period is more than 30% of the “full and fair cash value” of the building,¹ the entire building must come into compliance.

Enforcement: Anyone can file a complaint with the Board. The Board has the authority to issue variances and

¹ This is usually the assessed value established by the city or town. See 521 C.M.R. § 5.38 for details about establishing value where no assessment exists.

impose fines of up to \$1000 per violation per day of noncompliance with its order. Call the AAB for the appropriate complaint or variance forms.

Architectural Access Board
One Ashburton Place, Room 1310
Boston, MA 02108
(617) 727-0660, (800) 828-7222

Website: <http://www.mass.gov/aab/>

See also Chapter 11, sec. 82 of the Acts of 1997 this was a budget bill. It is not clear if it applies to work done in years other than FY1997. It states:

The Department of highways is hereby authorized and directed to require the installation of curb-cuts, so called, for the purpose of compliance with the Americans with Disabilities Act, so called, for any highway project involving substantial resurfacing, lane realignment, widening, construction or reconstruction that uses funds of the Commonwealth. Said curb cuts shall be required at any intersection or crosswalk directly located within the scope of any such project, or that abuts or is reasonably adjacent to the scope of such work. The requirements of this section shall apply to any highway project undertaken by said department or a political subdivision of the commonwealth using said funds, but shall not apply to routine maintenance.

Federal Architectural Barriers Act

42 U.S.C. § 4151, et seq.

The Architectural Barriers Act (ABA) requires that buildings and facilities that are designed, constructed or altered with

federal funds, or leased by a federal agency, comply with federal standards for physical accessibility. 41 C.F.R. §101-19.6. ABA requirements are limited to architectural standards in new and altered buildings and in newly leased facilities. They do not address the activities conducted in those facilities. U.S. Postal Services facilities are also covered by the ABA.

Enforcement: For more information or complaint forms contact:

U.S. Architectural and Transportation Barriers Compliance Board

1331 F Street, NW, Suite 1000
Washington, D.C. 20004-1111
[800] 872-2253 Voice [800] 993-2822 TTY
Website: <http://www.access-board.gov>

AUTOMOBILES & TRANSPORTATION

Americans with Disabilities Act, Title II: Transportation 42 U.S.C. § 12141, et seq.

Public Transportation services, such as buses, subways and rail transit systems, may not discriminate against people with disabilities in the ways they provide their services. New public transit buses and rail vehicles ordered after August 26, 1990 must be wheelchair accessible. Transit authorities that operate fixed route bus or rail systems must provide comparable para-transit or other special transportation services to individuals with disabilities who cannot use fixed route bus services, unless an undue burden would result. Existing rail systems must have one accessible car per train (effective July 26, 1995). Key stations in rapid, light and commuter rail systems should have been made accessible by July 26, 1992, with extensions up to 20 years for commuter rail and 30 years for rapid and light rail for stations needing extraordinarily expensive structural changes. All existing Amtrak stations must be accessible by July 26, 2010. Private businesses that provide public transportation services will have to comply with the same requirements as public transit agencies, except for automobiles. The date for requiring new over-the-road buses (Greyhound-type) to be accessible was July 26, 1996 or 1997, depending on the size of the business. Private businesses which provide transportation (such as hotels) will have to ensure disabled persons a level of service equivalent to the general public.

Under Title III, 42 U.S.C §12183, et seq., The ADA also imposes restrictions on private transportation providers that offer their services to the public. Specifically, they may not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability. They must make reasonable modifications to their policies, practices, and

procedures, provide auxiliary aids and services and remove physical barriers to participation. In some circumstances, private transportation providers must also comply with requirement for the purchase or lease of new accessible vehicles.

Enforcement:

Department of Transportation, FTA, Region 1
55 Broadway Suite 920, Cambridge, MA 02142
(617) 494-2055 V, 617 494-3154 (TTY), [617] 494-2055 FAX

Websites:

http://www.fta.dot.gov/transit_data_info/ada/14524 ENG
[HTML.htm](http://www.unitedwerride.gov/HTML.htm) and <http://www.unitedwerride.gov/>
Individuals may also file private lawsuits.

Federal Air Carrier Access Act – 1986 49 U.S.C. § 41705

Domestic air carriers may not refuse persons with disabilities transportation because of their disability. Some of the provisions include the following: Air carriers may not limit the number of persons with disabilities on a flight, may not require special services (such as advance boarding), may not require advance notice except for certain accommodations, may not require travel with an attendant except in limited circumstances, must provide boarding assistance and assistance within the cabin, must give priority to storage of wheelchairs and may not charge for accommodations required by the law. New aircraft over certain sizes must have movable armrests, accessible lavatories and space for storing wheelchairs (the larger the aircraft the more access is required).

Enforcement: Air carriers must establish their own compliance procedure, including “complaints resolution officials.” Complaints may also be filed with: Aviation Consumer Protection Division

U.S. Department of Transportation
400 7th Street, S.W., Washington, DC 20590
(202) 366-2220

Website:

http://www.faa.gov/passengers/passengers_disabilities/

Massachusetts Automobile Excise Tax Exemption – 1965

G.L. c. 60A, § 1

Exempts qualified disabled persons from excise tax requirements. The motor vehicle must be owned and registered by a person who has suffered loss or permanent loss of use of both legs or both arms or loss of vision of both eyes to a certain degree. The exemption applies to only one motor vehicle per person owned and registered for their personal and noncommercial use. Applications for exemptions are available from the local city or town assessor's office.

Massachusetts Automobile Sales Tax Exemption – 1968

G.L. c. 64H, § 6

This law exempts certain people with disabilities from the purchase and use tax of a motor vehicle. To qualify, a disabled person must be the original registered owner of the motor vehicle and have the loss of two or more limbs or permanent loss of use of at least 80% of two or more limbs. Parents and others, who transport similarly disabled children or adults, who have been found incompetent to legally enter into contracts, may also be entitled to this exemption. See DOR Directive 03-11. The Department of Revenue has clarified that a wheelchair lift used to make a van accessible may also be exempt even if purchased separately from the vehicle. In cases where the lift is purchased after the van, a physician's prescription may be needed to document this exemption. See DOR Directive 00-7.

Applications:

Department of Revenue
Customer Service Bureau

P.O. Box 7010, Boston, MA 02204
(617) 887-6367

Website: <http://www.mass.gov/dor/>

Mass. Registry of Motor Vehicles
Medical Affairs

P.O. Box 199100
Boston, MA 02119-9100

(617)351-9222 (Voice); (877)768-8833 (TTY)

Website: <http://www.mass.gov/rmv/>

Massachusetts Gas Station Law – 1985

G.L. c. 94, § 295CC

A gas station that has both full and self-service pumps must dispense fuel at the self-service pumps **at the lower price** to persons who have HP plates, placards or disabled veterans plates. At all self-services station with more than one attendant, they are obliged to pump the gas for a person with a disability on request. Signs must be posted at the pumps informing patrons of this information.

Enforcement:

Executive Office of Consumer Affairs
Division of Standards

One Ashburton Place, Room 1115
Boston, MA 02108

(617) 727-3480

Website: <http://www.mass.gov/standards/>

Massachusetts Handicapped Parking Laws

Chapter 40 governs a variety of activities by cities and towns, including parking. For example:

1. Parking Lots:

G.L. c. 40 § 21, ¶ 23: All parking lots and garages open to the public must comply with the parking regulations of the Architectural Access Board which are similar to but significantly different from the specifications of this

Handicapped Parking Law. The Law requires public or private parking areas that are used by the public to reserve designated parking spaces for vehicles, which bear an HP plate, placard or a disabled veteran plate. The minimum numbers for designated spaces are as follows:

| Total Spaces | % HP | Minimum # |
|---------------|-------|-----------|
| 15 - 25 | - | 1 |
| 26 - 40 | 5.00% | 2 |
| 41 - 100 | 4.00% | 3 |
| 101 - 200 | 3.00% | 4 |
| 201 - 500 | 2.00% | 6 |
| 501 - 1,000 | 1.50% | 10 |
| 1,001 - 2,000 | 1.00% | 15 |
| 2,001 - 5,000 | 0.75% | 20 |
| > 5,001 | 0.50% | 30 |

These spaces must be as near as possible to the building entrance or walkway and adjacent to a curb ramp permitting sidewalk access. The spaces must have above grade signs which bear the words "Handicapped Parking: Special Plate Required Unauthorized Vehicles May be Removed at Owner's Expense".

2. Parking Meter Fees

G.L. c. 40 § 22A: In Cities and Towns that have parking meters, people who have an HP plate or display placard are exempt from paying parking meter fees. However, this exemption only applies to meters, **not** any other type of pay to park system.

3. Over Parking Time Limits

G.L. c. 40 § 22: People who have an HP plate or display placard are exempt from the time limits on a parking space, such as 15 minutes or 1 hour only, etc. However, this does not exempt plate or placard users from fines or

towing when "No Parking" restrictions are in effect, such as snow emergencies, and overnight parking bans.

4. Reserved Spaces and Towing

G.L. c. 40 § 22D: A municipality may further regulate parking by restricting certain on-street areas for vehicles bearing HP plates or placards. People who park blocking curb cuts or handicapped parking spaces can be towed.

Enforcement: Fines for parking in a handicapped parking space without a plate or placard range from one hundred dollars (\$100) to three hundred dollars (\$300). The exact amount is determined by the municipality. Cars may also be towed. Enforcement is by the local police or traffic department.

Websites for Municipalities: <http://www.mass.gov/cc/> for individual city and town information.

Massachusetts Handicap Plate and Placard Law – 1977 G.L. c. 90, § 2

HP plates and placards are issued through the Registry of Motor Vehicles to eligible people with disabilities. As discussed under the parking laws above, they entitle holders:

- to park in designated HP spaces,
- to park longer than usual time limits,
- to park at parking meters free of charge, and
- to make use of the gas station law.

The rights, responsibilities and privileges of plate

holders and placard holders are the same. The Registry's Bureau of Medical Affairs determines eligibility according to physician's documentation. Only people who meet the disability definition and who are the registered owner of the vehicle and who are licensed drivers may receive plates. Anyone who meets the disability definition can get a placard. Individuals who meet the standards for both plates and placards can choose which they prefer. The only practical difference between them is that a plate is permanently

attached to one car, while a placard is a card that can easily be moved from one car to another. The Massachusetts Registry of Motor Vehicles also issues temporary placards in some circumstances.

Note: Substantially revised in 2000, the law allows eligible individuals to obtain both a placard and a plate. It removes the previously confusing references to the placard as a type of plate. An individual who uses a handicapped placard without proper authorization is the individual who will be penalized, as opposed to the individual with a disability to whom the placard was issued. A placard may be utilized for parking in association with the transportation of the authorized user of the placard. This change addresses confusion related to the appropriate use of a placard when picking up or dropping off the authorized user. It allows workers with disabilities to use their placard when driving a commercial vehicle, but preserves the time limitations for the utilization of commercial spaces. It increases the fines for unauthorized utilization of handicapped placard from one hundred to five hundred dollars for the first offense and one thousand dollars for subsequent offenses. It specifies that the fines and penalties in this section are in addition to those specified in Section 37E of Chapter 266 for the fraudulent use of another's identity.

Applications for plates and placards are available at the Registry of Motor Vehicles Offices or by contacting:

Massachusetts Registry of Motor Vehicles
Medical Affairs
P.O. Box 199100
Boston, MA 02119-9100
(617) 351-9222 or (800) 858-3926 (Voice)
(877) 768-8833 (TTY)

Hand Deliveries to:
Massachusetts Registry of Motor Vehicles
630 Washington Street

Boston, MA. 02119

Website: <http://www.mass.gov/rmv/medical/>

Massachusetts White Cane Law –1949

GL c. 90 § 14A

Whenever a blind pedestrian, guided by a guide dog or carrying a raised or extended cane which is white or white tipped with red, attempts to cross a street, drivers must stop for the dog or cane user. A person who owns an animal shall restrain and control such animal on a leash when in proximity to a guide dog that is on a public or private way. Violations of this law are punishable by a criminal fine of not less than one hundred and no more than five hundred dollars.

Enforcement: The White Cane Law is enforced by state and local police.

Websites for Municipalities: <http://www.mass.gov/cc/>

DISABILITY COMMISSIONS

Massachusetts Disability Commissions

G.L. c. 40, § 8J and 22G

A city or town, which accepts the provisions of this Section, is authorized to establish a Disability Commission.

Commissions work with the Office on Disability to carry out programs and activities designed to integrate people with disabilities into the community. The specific activities of a Commission depend on the needs of the disabled community in the particular city or town.

Commissions consist of five to nine members, and are appointed by the mayor or city manager in cities or by the selectmen or town manager in towns. The majority of members must be disabled, and one must be an immediate family member of a disabled person. One member of the Commission must be an elected or appointed official of the city or town. Members are initially appointed in staggered one, two and three year terms. A Commission must have at least six meetings per year, keep records of its meetings and actions, and file an annual report. Commissions generally are authorized to receive gifts and other funds, under Section 8J. For the benefit of persons with disabilities, cities and towns which have chosen to implement a Handicapped Parking Program may empower Commissions to receive and administer fines from violations of the Handicapped Parking Law, under Section 22G. The details of these funding decisions are left to the collaborative efforts of officials in the local communities. For more information, contact the Massachusetts Office on Disability.

NOTE: The fines for handicapped parking violations were substantially increased at the very end of the 2000 legislative session. See pages 9 - 11, for more information on the Plate / Placard and Parking Laws.

EDUCATION

Massachusetts Early Childhood Intervention Law – 1983 G.L. c. 111G

Under this law, the Department of Public Health (DPH) is responsible for the implementation and administration of early intervention services. Early intervention services are provided to children and the families of children who are between birth and three years of age and who have identified handicapping conditions or who are at risk for developmental delays due to biological or environmental factors. Services focus on the family and include speech, occupational and physical therapy, social work, psychological, and nursing care. DPH must provide transportation whenever transportation to early intervention services is required.

Under this law, DPH is the lead agency for the coordination of all governmental funding for the provision of early intervention services, both state and federal. DPH is also responsible for administration of an advisory committee, which monitors and assesses the effectiveness of the administration of early intervention services.

Enforcement:

Department of Public Health
Bureau of Family & Community Health
250 Washington Street
Boston, MA 02108
(617) 624-6060

Website: <http://www.mass.gov/dph/fch>

Federal Individuals with Disabilities Education Act – 1975 20 U.S.C. § 1400, et seq.

This federal law, modeled after the Massachusetts law Chapter 766, requires public schools to make available to all eligible children with disabilities a free and appropriate public education in the least restrictive environment appropriate to

their individual needs. Any child who qualifies for special education services will receive them following an evaluation and the development of an Individualized Education Plan (IEP). A team of interested parties, which can include such people as educators, parents, physicians and advocates, develops the plan.

Enforcement: If an agreement cannot be reached concerning a student's IEP or if the agreed upon plan is not being implemented, contact:

U.S. Department of Education
Office for Special Education and Rehabilitation Services
400 Maryland Ave., SW
Washington, DC 20202-7100
(202) 245-7468

Website: <http://www.ed.gov/about/offices/list/osers>

Massachusetts Public Education Law, Ch. 766 – 1972 G.L. c. 71B, §§ 1 - 14

This state law guarantees a "free and appropriate public education in the least restrictive environment" to all school-aged children (ages 3 to 22) regardless of disability. Any child who qualifies for special education services will receive services specified in an Individualized Education Plan (IEP). A team of interested parties, including educators, parents, physicians and advocates, develops the plan.

Enforcement: If an agreement cannot be reached concerning a student's IEP or if the agreed upon plan is not being implemented, the Department of Education should be contacted.

Mass Department of Education
Program Quality Assurance Unit
350 Main Street, Malden, MA 02148-5023
(781) 338-3000

Website: <http://www.doe.mass.edu>

Massachusetts Braille Literacy Law

G.L. c. 6, § 133G and G.L. c. 71B, § 3

Legally blind adults and children are entitled to instruction in braille. School age children are entitled to receive their instruction as part of their school's special education services. Others receive training through the Massachusetts Commission for the Blind.

For further information contact:

Mass. Commission for the Blind

48 Boylston Street

Boston, MA 02116-4718

(617) 727-5550 & (800) 392-6450 (Voice)

FAX (617) 626-7685; (800) 392-6556 (TTY)

Website: <http://www.mass.gov/mcb/>

Massachusetts Transitional Planning Services, Turning

22 (Commonly Known as Chapter 688)

G.L. c. 71 B, §§ 12A - C

This law provides a transitional planning process for eligible people with disabilities who will lose special education services upon graduation or upon turning 22. An assigned agency develops an Individual Transitional Plan describing the services needed. The Individual Transitional Plan must be agreed upon by the Department of Education, the Executive Office of Human Services, other agencies involved, and people with disabilities or their guardians. The Bureau of Transitional Planning within the Department of Education monitors all Chapter 688 cases.

Enforcement: Questions and complaints are sent to:

Bureau of Transitional Planning

Executive Office of Health & Human Services

One Ashburton Place, Room 1109

Boston, MA 02108

(617) 573-1600 (Voice); (617) 727-0014 (TTY)

EMPLOYMENT

Americans with Disabilities Act Title I: Employment

42 U.S.C. § 12111, et seq.

The law prohibits employers from firing, refusing to hire or rehire, or otherwise discriminating, against a qualified person with a disability on the basis of disability. To be "qualified" a person must be able to perform the essential functions of the job, or would be able to perform the essential functions with reasonable accommodation. "Reasonable accommodations," such as a flexible work schedule, providing a reader or transfer to an office in an accessible location, are adjustments employers must make to enable persons with disabilities to work. These accommodations are at the employer's expense, unless they are an "undue hardship." For employers with 25 or more employees, the law became effective July 26, 1992; for employers with 15 or more employees it became effective July 26, 1994. Please be sure to review Massachusetts Employment Discrimination Law, which applies to employers with 6 or more employees. Also please consult Sections 501 and 504 of the Federal Rehabilitation Act and Executive Order 246.

Enforcement:

Equal Employment Opportunity Commission

JFK Building, Rm. 475, Boston, MA 02203-0506

(617) 565-3200 or (800) 669-4000 (Voice)

(617) 565-3204 or (617) 699-6820 (TTY)

Website: <http://www.eeoc.gov/>

Federal Rehabilitation Act

29 U.S.C. § 791 et seq.

Employment by the Federal Government: Section 501

Prohibits discrimination and requires adoption of affirmative action plans for hiring, placement, and advancement of

individuals with disabilities within federal agencies and the U.S. Postal Service.

Enforcement: Complaints may be filed with the agency's Equal Employment Opportunity Counselor for informal review and resolution. If the matter is not resolved satisfactorily within 21 days, a formal complaint may be filed with the agency head, the Director of Equal Employment Opportunity, an Equal Opportunity Officer, or other designated official.

Employment by Federal Contractors: Section 503 ***29 U.S.C. §793***

Prohibits discrimination on the basis of disability and requires affirmative action in hiring persons with disabilities when the employer has a contract or subcontract with the federal government in excess of \$10,000.

Enforcement:

The 503 regulations are written and enforced by the Department of Labor. Complaints go to:

U.S. Department of Labor
Office of Federal Contract Compliance Programs
J.F.K. Building, Room 525
Boston, MA 02203
(617) 624-6780

Website: <http://www.dol.gov/esa/ofccp/>

Massachusetts Employment Discrimination Law **G.L. c. 151B, 4, ¶ 16**

This law prohibits any employer in Massachusetts who employs six or more people from firing, refusing to hire or rehire, or otherwise discriminating against a qualified disabled person on the basis of disability. A "qualified" disabled person must be able to perform the essential functions of the job, with or without a reasonable accommodation. "Reasonable accommodations," such as a flexible work schedule or

providing a reader, are adjustments an employer must make to enable a person with a disability to do a job. These accommodations are at the employer's expense as long as they do not create an undue hardship.

Enforcement: The Massachusetts Commission Against Discrimination (MCAD) is the enforcement agency for the statute. A complaint must be filed at an MCAD office within 300 days of the discriminatory act:

1 Ashburton Pl. #601 436 Dwight St., #220
Boston, MA 02108 Springfield, MA 01103
(617) 994-6000 (Voice) (413) 739-2145.
(617) 994-6194 (TTY)

Website: <http://www.mass.gov/mcad/>

EQUAL RIGHTS

Americans with Disabilities Act

42 U.S.C. § 12101, et seq.

The Americans with Disabilities Act (ADA) provides a comprehensive national mandate for the elimination of discrimination against individuals with disabilities. The individual parts of the law are discussed in the corresponding subject matter sections of this booklet. Specifically, in the following areas:

- Employment, Title I, see page 18,
- State and municipal government activities, Title IIA, see page 32,
- Transportation, Title IIB, see page 6,
- Public accommodations, Title III, see page 32, and
- Telecommunications Title IV, see page 39.

The particular parts of the law became effective on various dates during the 1990's.

Massachusetts Constitutional Amendment

Article 114

The Massachusetts Constitution states:

"No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity within the Commonwealth."

Article 114 is broadly written. It prohibits discrimination on the basis of disability on any level within the state, not just for recipients of state or federal funds. For example, town meetings must be held in an accessible place with sign language interpreters provided if needed, and a small grocery

store or a privately owned dinner theater can't refuse to do business on the basis of a person's disability.

Enforcement: Enforcement of this Amendment is through the courts. However, we have not seen its full impact because it hasn't been fully tested in the courts. If you feel your rights have been violated under Article 114, contact the Massachusetts Office on Disability. If a resolution can not be reached, MOD will help you file a complaint with the Civil Rights Division of the Office of the Attorney General.

Website: <http://www.mass.gov/dph/fch/index.htm>

Massachusetts Equal Rights Law

G.L. c. 93 § 103

Implementing Article 114 to the Massachusetts Constitution, the equal rights law guarantees persons with disabilities (with reasonable accommodation) the same rights as other persons, such as the rights to contract, to inherit, to purchase, to lease, to sell, to participate in law suits and to receive the full benefit of the law.

Enforcement: Complaints of violation of the equal rights law are made by filing a law suit in the superior court. Individuals who win their complaints are entitled to reimbursement for their reasonable attorney fees.

Massachusetts Executive Order 246

EO 246

Executive Order 246 prohibits discrimination and mandates affirmative action to ensure equal opportunity for people with disabilities by the Commonwealth. The requirements of this Order apply to State executive agencies' internal policies and practices, such as employment and the granting of licenses, and apply as well to recipients of state funding, including contract and grant recipients such as municipalities. Each agency under an executive office must create an affirmative

action plan, which includes goals and methodology for the placement of people with disabilities in the state's work force. All state employment, services and facilities should be accessible and non-discriminatory on the basis of disability. Some examples of programs and activities that must comply with EO 246 include: employment and training services, health care facilities licensed or chartered by the state, private educational institutions licensed or chartered by the state and those which receive state assistance or participate in state programs, or a person, corporation, or business which is licensed or chartered by the state.

Enforcement: Responsibilities for carrying out the requirements of Executive Order 246 are divided among different agencies: Office of Diversity and Equal Opportunity (ODEO), the Massachusetts Commission Against Discrimination (MCAD) and the Massachusetts Office on Disability (MOD). Complaints under EO 246 should be addressed to:

Massachusetts Commission Against Discrimination:
1 Ashburton Pl. #601 436 Dwight St., #220
Boston, MA 02108 Springfield, MA 01103
(617) 994-6000 (Voice) (413) 739-2145.
(617) 994-6194 (TTY)

Website: <http://www.mass.gov/mcad>

Or

Office of Diversity and Equal Opportunity
One Ashburton Place, #313
Boston, MA 02108
(617) 727-7441 (Voice), (617) 727-6015 (TTY)
Website: <http://www.mass.gov/hrd>

Federal Rehabilitation Act

29 U.S.C. § 791 et seq.

In 1973, Congress passed the Rehabilitation Act in a national effort to end discrimination on the basis of disability by

agencies and organizations, which receive or benefit from federal financial assistance. The five major components to the Rehabilitation Act of 1973, as amended, are:

- Section 501 – Employment by the Federal Government, see page 18,
- Section 502 – Architectural and Transportation Barriers Compliance, see page 4,
- Section 503 – Employment by Federal Contractors, see page 19
- Section 504 – Entities Receiving Federal Funds, see page 33,
- Section 508 – Access to Technology, see page 39.

Section 505 contains complaint procedures and remedies available to a complainant under 501 and 504. Among other remedies, it allows a court to award reasonable attorney's fees to a plaintiff who prevails in a discrimination case.

Massachusetts Provision of Sign Language Interpreters In Court Proceedings G.L. c. 221, § 92A

When a deaf or hearing impaired person is a party or a witness, this law entitles the person to have a qualified interpreter in any court proceeding, juvenile proceeding, or proceeding before an executive or legislative board, commission, agency, or any other body of the state or its political subdivisions. This law also entitles a deaf or hearing impaired person to have an interpreter during any proceeding which follows an arrest such as notification of rights, warnings, interrogation, or taking of a statement. The interpreter must be approved by the Massachusetts Commission for the Deaf and Hard of Hearing.

For More Information: To hire an interpreter or for more information on the law contact:

Mass. Commission for the Deaf & Hard of Hearing
150 Mt. Vernon St. Suite 550, Boston, MA 02125
(617) 740-1600 (Voice), (617) 740-1700 (TTY)

Website: <http://www.mass.gov/mcdhh/>

For interpreter referral:

(800) 882-1155 (Voice), (800) 530-7570 (TTY)

HATE CRIMES

Several Massachusetts laws address actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by disability based prejudice. It includes acts that deprive another person of his constitutional rights by threats, intimidation or coercion, or which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation. These are generally referred to as "hate crimes." G.L. c. 22C, § 32.

Violations of Constitutional Rights; Criminal Penalties G.L. c. 265 § 37

Massachusetts law makes the following a crime:

No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the commonwealth or by the constitution or laws of the United States.

Any person convicted of violating this provision may be fined up to one thousand dollars or imprisoned not more than one year or both. If bodily injury results, the punishment may be increased to a fine of up to ten thousand dollars or by imprisonment for up to ten years, or both.

**Assault or Battery for Purpose of Intimidation; Weapons;
Criminal Penalties**
G.L. c. 265 § 39

(a) An assault² or a battery³ upon a person or damage to the real or personal property of a person with the intent to intimidate such person because of such person's disability is a crime.

Punishable by a fine of up to five thousand dollars or by imprisonment in a house of correction for up to two and one-half years, or by both, a court may also order restitution to the victim in any amount up to three times the value of property damage sustained by the owner.

(b) A battery in violation of this section and which results in serious bodily injury is punishable by a fine of up to ten thousand dollars or by imprisonment in the state prison for up to five years, or by both. If the offender is armed with a firearm, rifle, shotgun, machine gun or assault weapon, punishment may be increased to imprisonment in the state prison for up to ten years or in the house of correction for not more than two and one-half years. There is also a surcharge of one hundred dollars on a fine assessed against a defendant convicted of a violation of this section. The surcharge goes to the Diversity Awareness Education Trust Fund. In the case of convictions for multiple offenses, the surcharge is assessed for each conviction.

A person convicted of a battery under (b) section must also complete a diversity awareness program designed by the secretary of the Executive Office of Public Safety in consultation with the Massachusetts Commission Against Discrimination and approved by the Chief Justice for Administration and Management of the Trial Court. The

² Words or actions that cause a person to fear for his or her safety.

³ Actual physical contact.

program must be completed prior to release from incarceration or prior to completion of the terms of probation, whichever applies.

**Civil Actions By Attorney General For Violations Of
Constitutional And Legal Rights**
G.L. c.12, § 11H

The attorney general may bring a civil law suit to protect the peaceable exercise or enjoyment of the right or rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the commonwealth. This type of law suit is filed in Superior Court and must be based on evidence that a person or persons attempted to or actually interfered by threats, intimidation or coercion, with the exercise or enjoyment of civil rights by any other person or persons.

Enforcement:

Department of the Attorney General
Civil Rights Section
100 Cambridge Street
Boston, MA 02108
(617) 727-2200

Website: <http://www.ago.state.ma.us>

Civil Damages For Civil Rights Violations
G.L. 266, § 127B

Any person incurring injury to his person or damage or loss to his property as a result of conduct in violation of section 39 of chapter 265, above, is entitled to file a civil law suit to ask the court to stop the violations and to obtain special and general damages, reasonable attorney fees and costs against the person whose conduct has violated section 39. Parents and legal guardians of unemancipated minor children are liable for any judgment rendered against such minor under the provisions of this section.

Enforcement:

Individuals may file private law suits.

HOUSING

See also ZONING Section, on page 42.

Federal Fair Housing Act

42 U.S.C. §§ 3535 & 3601-3620

The Act extends civil rights protection to individuals with disabilities by prohibiting discrimination in the sale, rental or conditions of occupancy of a dwelling because of a person's disability. Owner-occupied dwellings of four or fewer units are exempt from this requirement. It is also unlawful to refuse to allow a person with a disability to make reasonable modifications at his/her expense in order to fully use the premises. Tenants may be required to remove modifications and return the unit to the original condition upon moving. All new multi-family units, rental units and condominiums, in complexes of four or more units, available for first occupancy after March 13, 1991, have to be "adaptable." Adaptable units include feature such as wide doorways, low outlets, reinforcements in walls for grab bars, useable bathrooms and kitchens) if there is an elevator in the building. If there is no elevator, only the ground floor units must be adaptable. All public and common areas have to be accessible.

Enforcement:

Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
O'Neil Building, 10 Causeway Street, #321
Boston, MA 02222
(617) 994-8300 (Voice) (617) 565-5453 (TTY)
(800) 827-5005 (Voice) - Toll Free in Massachusetts
(800) 669-9777 (Voice) - Toll free in US
(617) 565-7313 FAX

Website: <http://www.hud.gov/disabled.html>

Massachusetts Housing Bill of Rights

G.L. c. 151B §4

This law has the same protection as the federal law, but only exempts owner-occupied, two-family units from coverage. It is illegal for a landlord to ask about a person's disability, except to ask about qualifications for a special type of unit ("Do you have a condition that qualifies you for a wheelchair accessible unit?"). Only medical opinions which address qualifications for a particular unit may be sought ("Does Jane Doe have a condition that qualifies her for a unit for people with mental retardation?"). If there are 3 or more units, changes must be made to rules or policies if these changes are needed for a person with a disability to use or enjoy the premises. A person with a disability may make reasonable modifications to the premises at his/her own expense. In publicly assisted housing, or housing with 10 or more units, the landlord is responsible for paying for reasonable modifications unless they would impose an undue hardship. The law also requires that new construction of housing with 3 or more units ready for first occupancy after March 13, 1991 be adaptable consistent with AAB regulations. The Massachusetts Rehabilitation Commission administers a central registry to match accessible and adaptable housing units with persons who need them. Local Independent Living Centers can provide access to the Registry. Call MOD for a listing or access the internet at:

<http://209.58.162.66/registry/registrymax.nsf/webpages/home?open>

Enforcement:

Massachusetts Commission Against Discrimination:

1 Ashburton Pl. #601
Boston, MA 02108
(617) 994-6000 (Voice)
(617) 994-6194 (TTY)

436 Dwight St., #220
Springfield, MA 01103
(413) 739-2145.

Website: <http://www.mass.gov/mcad/>

Federal Pet Law

12 U.S.C. §1701 r-l; 24 C.F.R. §5.300, et seq.

This law allows persons with disabilities and persons who are elderly living in federally assisted non-family rental housing to own or keep common household pets (dogs, cats, birds, rabbits, fish or turtles). Owners and managers may make reasonable rules for the keeping of pets and may require a pet deposit. See also Massachusetts Public Accommodations Law, page 33.

Enforcement:

Department of Housing and Urban Development

Office of Fair Housing and Equal Opportunity

10 Causeway Street, #321,

Boston, MA 02222

(617) 994-8300 (Voice), (617) 565-5453 (TTY) (800) 827-5005 (Voice)

Website: <http://www.hud.gov/disabled.html>

Massachusetts Property Tax Exemptions

G.L. c. 59, § 5

Clause 37 provides an exemption of \$437.50 of property taxes to legally blind persons who own and occupy their own property. Applications must be made annually. The Commonwealth will reimburse the municipality \$87.50 for each exemption. Clause 37A increases the exemption to \$500, but is a local option: vote of Town Meeting (towns) or City Council (cities) must adopt it. Clauses 22, 22A, 22B, 22C and 22E apply to veterans with varying levels of disability (the greater the disability, the larger the exemption).

For more information contact:

Massachusetts Department of Revenue

Consumer Service Bureau, P.O. Box 7010,

Boston, MA 02204

(617) 626-2300 & (800) 521-5536 Voice; (617) 887-6140 TTY

Website: <http://www.mass.gov/dor/>

Massachusetts Homestead Protection Act

G.L. c. 188, §1A

With some exception, the real property or manufactured home of a person with a disability can be protected against attachment, seizure or execution of a court judgment up to a value of \$500,000. The owner must occupy, or intend to occupy, the real property or manufactured home as his or her principal residence, and he or she must file a disabled person's declaration of homestead protection, along with proof of disability.

For further information contact either the city or town clerk or the Massachusetts Registry of Deeds for the area in which the property is located

Website:

<http://www.sec.state.ma.us/rod/rodhom/homidx.htm>

PUBLIC PLACES & PROGRAMS

Americans with Disabilities Act

State and Local Government, Title IIA

42 U.S.C. § 12131, et seq.

Effective January 26, 1992, state, local and municipal governments must provide equal opportunity for persons with disabilities in programs, activities, services and employment practices. People using service animals must be allowed equal access. Effective communication must be ensured with persons who are deaf, hard of hearing and blind or who have cognitive disabilities through provision of auxiliary aids and services. Remedying actions might include the provision of sign language interpreters, the distribution of material in large print, braille or audio tape, holding meetings and hearings in accessible locations and ending discriminatory hiring practices. Under a concept called "programmatic access," every part of every facility need not necessarily be accessible. Instead, the programs, activities and services when viewed in their entirety must be readily accessible to and useable by persons with disabilities.

Enforcement:

Office on the Americans with Disabilities Act
Civil Rights Division, U.S. Department of Justice
950 Pennsylvania Ave., NW, Washington, D.C. 20530
(202) 514-0301 or (800) 514-0301 (Voice)
(800) 514-0383 (TTY)

Website: <http://www.usdoj.gov/crt/ada/adahom1.htm>

Individuals may also file private lawsuits.

Public Accommodations, Title III

42 U.S.C. § 12181, et seq.

Public accommodations such as restaurants, retail stores, parks, day care centers and homeless shelters, may not

discriminate on the basis of disability, effective January 26, 1992.

Public accommodations must make reasonable modifications in policies, practices and procedures, unless the modifications would fundamentally alter the nature of the goods or services. Such modifications must include waiving any "no animals" policy to allow guide dogs and service animals to accompany their owner with a disability. Physical barriers in existing facilities must be removed if readily achievable (easily accomplishable and able to be carried out without much difficulty or expense). If not, alternative readily achievable methods of providing services must be offered. Auxiliary aids and services must be provided to individuals with vision or hearing impairments, unless an undue burden would result.

Enforcement: Complaints must be filed within 180 days of the alleged discriminatory act.

U.S. Department of Justice, Civil Rights Division
Disability Rights Section

Office on the Americans with Disabilities Act
950 Pennsylvania Ave., NW, Washington, D.C. 20530
(202) 514-0301, (800) 514-0301 (Voice)
(800) 514-0383 (TTY)

Website: <http://www.usdoj.gov/crt/ada/adahom1.htm>

Individuals may also file private lawsuits.

Federal Rehabilitation Act: Entities Receiving Federal Funds, Section 504

29 U.S.C. § 794 et seq.

This section prohibits discrimination against people with disabilities under any program or activity receiving or benefiting from federal financial assistance. It states that:

"No otherwise qualified handicapped individual in the United States ... shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits

of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

Organizations, such as colleges, public schools, libraries, hospitals, or cultural programs, which receive or benefit from federal financial funds, must provide equal opportunity for people with disabilities in their programs and activities. Remedying actions might include the provision of sign language interpreters, the distribution of material in large print or braille or moving a class to a physically accessible location. Every part of every building need not necessarily be accessible, but the program, when viewed in its entirety must not discriminate against or segregate persons with disabilities.

Some examples of compliance with Section 504 may include:

- A hospital which receives Medicaid money must provide a qualified interpreter to someone who is deaf when communication is necessary. A hospital also must provide the use of a TTY (telephone communication device for the deaf) to a deaf person who requires one to communicate on the telephone.
- A school or college which receives federal financial assistance cannot decline an application on the basis of a person's disability. All programs and classes must be made available. For example, a class must be moved to an accessible location on campus if a person with a mobility impairment wants to attend, a qualified interpreter must be provided if one is needed for a deaf person to understand the instructor, a note taker, large print books or books on tape must be provided to a student who needs it because of his/her disability or extra time must be provided to complete a test.
- If a museum which receives federal funds conducts an arts program in an inaccessible location, the museum

must make sure the same program is offered in an accessible place.

Enforcement: Federal agencies, such as the Department of Education and the Department of Housing and Urban Development, have developed regulations under Section 504. Each federal agency providing the financial assistance is responsible for establishing an enforcement procedure. To find out which agency should receive your complaint contact:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530
(800) 514-0301 (Voice) or (800) 514-0383 (TTY)
Website: www.ada.gov

It may also be enforced through private law suits.

Massachusetts Public Accommodations Law G.L. c. 272, §§ 92A and 98

Discrimination in places of public accommodation on the basis of disability is prohibited. This is defined as any place, which is open to and accepts the general public. The law prohibits discrimination not only in terms of building access but also in terms of business or services. For example, a bank cannot refuse to grant a loan to someone based on his/her disability and a hotel cannot exclude someone who uses a personal care attendant from a room. This law also prohibits discrimination against a blind, deaf or hard of hearing person, or any other person with a disability who uses a support or guide dog. At one time, this law allowed operators of public accommodations to require that a guide or service animal be muzzled and to demand special identification of service animals. As these provisions violated the Americans with Disabilities Act, page 32 above, they were

repealed in 2000 and 2004, respectively.

Enforcement: A complaint must be filed within 300 days of the alleged act at the Massachusetts Commission Against Discrimination:

1 Ashburton Pl. #601 436 Dwight St., #220
Boston, MA 02108(617) Springfield, MA 01103
994-6000 (Voice) (413) 739-2145.
(617) 994-6194 (TTY)

Website: <http://www.mass.gov/mcad/>

SERVICE ANIMALS

Massachusetts Service Animal Law G.L. c. 272, §§ 92A and 98A

Any person with a disability accompanied by a dog guide or service animal is entitled to any and all accommodations, advantages, facilities and privileges of all public conveyances, public amusements and places of public accommodation, within the Commonwealth, to which others not accompanied by dogs are entitled, subject only to the conditions and limitations applicable to all persons not accompanied by dogs. People training service animals are also protected. No service animal user may be required to pay any charge or fare for the service animal in addition to those lawfully chargeable for the user's own travel.

Enforcement: Violation of this law is punishable by a fine of not more than three hundred dollars, and the service animal user is entitled to damages. Complaints must be filed within 300 Days at the Massachusetts Commission Against Discrimination:

1 Ashburton Pl. #601 436 Dwight St., #220
Boston, MA 02108(617) Springfield, MA 01103
994-6000 (Voice) (413) 739-2145.
(617) 994-6194 (TTY)

Website: <http://www.mass.gov/mcad/>

See also *Public Places and Programs*, page 30.

Service Animal Training Laws

There are three laws in Massachusetts that directly address service animal training:

1. General - G.L. c. 129, § 39F

A person accompanied by and engaged in the raising or training of a service dog, including a hearing, guide or MA Disability Laws – Page 38

assistance dog, shall have the same rights, privileges and responsibilities as those afforded to an individual with a disability under the Americans with Disabilities Act, 42 U.S.C. sections 12101 et seq.

For more information, contact MOD at the phone number on the cover of this booklet.

2. Hearing Dogs - G.L. c. 129 § 39D

A person engaged in the hearing dog business, while actually engaged in the training process and activities of hearing dogs, shall have the same rights, privileges and responsibilities with respect to access to public facilities as those applicable to deaf persons.

For more information: Contact the Massachusetts Commission for the Deaf and Hard of Hearing
150 Mount Vernon Street, Fifth Floor
Dorchester, MA 02125
Website: <http://www.mass.gov/mcdhhd>

3. Hearing dog business licensing - G.L. c. 129, § 39C

People engaged in the hearing dog business must be licensed. A hearing dog shall, for identification purposes, be fitted with a collar and leash which are of a bright color.

For more information, contract the Massachusetts Commission for the Deaf and Hard of Hearing, above.

TELECOMMUNICATION AND TECHNOLOGY

Federal Telecommunications Act

47 U.S.C. § 225

Originally enacted as part of the Americans with Disabilities Act, this law deals with telephone and television access for people with hearing and speech disabilities. Telephone companies must provide telecommunication Relay Services for people with hearing or speech impairments 24 hours a day, seven days a week, effective July 26, 1993. Relay Services enables callers who use telecommunication devices for the deaf (TTYs),⁴ and those who use voice telephones to communicate with each other through a third party communication assistant. The Federal Communication Commission has set minimum standards for Relay Services. See 47 C.F.R. § 64.601, et seq. for details.

Federally funded television public service announcements and emergency announcements must include captioning of the verbal content. Video programming distributors under the jurisdiction of the FCC must provide captioning for the lesser of an average of 1350 hours of captioned video programming or all of its new nonexempt video programming. As of January 1, 2006, and thereafter, 100% of the programming distributor's new nonexempt video programming must be provided with captions. See 47 C.F.R. § 79.1, et seq. for details.

Video description technology enables individuals to "hear what they cannot see" by providing verbal explanation of key visual elements in programming, inserted into natural pauses in the audio of programming. It is designed to make television programming more accessible to the many

⁴ This device is sometimes referred to as a TDD.

Americans who have visual disabilities. Under rules adopted by the FCC, broadcast stations and multi-channel video programming distributors must provide programming with video description. 47 C.F.R. § 79.3

Enforcement

Federal Communication Commission
445 12th Street, SW
Washington, DC 20554
[888]225-5322 Voice, or [888] 835-5322 TTY
Website: <http://www.fcc.gov/cgb/dro>
Individuals may bring private lawsuits.

Federal Rehabilitation Act, Access to Technology: Section 508

29 U.S.C. § 794d, et seq.

This section requires federal agencies to ensure that information technology that is developed, purchased or used is accessible to people with disabilities. This includes both federal employees and members of the public.

Enforcement:

U.S. General Services Administration
Center for IT Accommodation (CITA)
1800 F Street, NW, Room 1234, MC:MKC
Washington, DC 20405-0001
[202] 501-4906 Voice; [202]501-2010 TTY
Website: <http://www.section508.gov>

U.S. Architectural and Transportation Barriers Compliance Board
1331 F Street, NW, Suite 1000
Washington, D.C. 20004-1111
[800] 872-2253 Voice [800] 993-2822
Website: <http://www.access-board.gov>

For more information: To obtain assistance contact:

MA Disability Laws – Page 41

Mass. Assistive Technology Partnership Center (MATP)
Children's Hospital
1295 Boylston Street, Suite 310
Boston, MA 02215
(617) 355-7820 (Voice), (617) 355-7301 (TTY),
(800) 848-8867 (Voice & TTY), FAX (617) 355-6345
Website: <http://www.matp.org>

MA Disability Laws – Page 42

VOTING

Federal Voting for the Elderly and Handicapped Act

42 U.S.C. § 1973ee, et seq.

In each state, political subdivisions responsible for conducting elections must assure that all polling places for federal elections are accessible to disabled and elderly voters.

Mass. Secretary of State, Election Division Regulations

950 C.M.R. §51

In Massachusetts, the Elections Division of the Secretary of State's Office has written regulations that apply to site access, parking, entrances, voting equipment, etc. All municipalities are responsible for following these regulations. The position of the Massachusetts Attorney General is that state and municipal elections must also be accessible to persons with disabilities.

Enforcement: If the Elections Division is unable to achieve voluntary compliance, the matter is referred to the Civil Rights Division of the Attorney General's Office. Individuals can also bring an action for declaratory or injunctive relief in the appropriate district court.

Elections Division, Office of the Secretary of State
One Ashburton Place, Room 1705, Boston, MA 02108
(617) 727-2828 (800) 462-VOTE (800) 392-6090 (TTY)
FAX (617) 742-3238

Center Place
218 South Main Street, Suite 206
Fall River, MA 02721
(508) 646-1374 FAX (508) 646-1473

436 Dwight Street, Room 102
Springfield, MA 01103
(413) 784-1376 FAX (413) 784-1379

Help American Vote Act (HAVA)

Public Law 107-252, codified at 42 U.S.C. §15301, §15545

The Help America Vote Act (HAVA) was signed by President Bush in October 2002 in an effort to improve voting across the country and in response to the problems that arose in the 2000 presidential elections. This federal legislation makes changes in the election process and applies to all federal elections in the United States. The most significant areas impacted by the legislation include voting equipment standards, including accessibility, provisional voting, voter registration, and voter education.

HAVA requires that voting systems used after January 2006 be accessible to voters with disabilities, including voters with vision impairments, in a manner that provides the same opportunity for access and participation (including privacy and independence) as is provided for other voters.

Enforcement:

Same as Federal Voting for the Elderly and Handicapped Act, above.

For more information:

Election Assistance Commission

1225 New York Ave., suite 1100, Washington, DC 2005
(202) 566-3100 FAX (202) 566-1392

Web site: <http://www.eac.gov>

or

Voting Section, Civil Rights Division

Room 7254 - NWB

Department of Justice

950 Pennsylvania Ave., N.W.

Washington, DC 20530

(800) 253-3931 or (202) 307-2767

Website: <http://www.usdoj.gov/crt/voting/hava/hava.html>

WHEELCHAIRS

Massachusetts Wheelchair Lemon Law G.L. c. 93, §107

Individuals who lease or purchase customized wheelchairs are entitled to have defects repaired or if not repairable refunds, plus interest paid. Failure to conform can result in the manufacture being fined double the cost to the consumer.

Enforcement:

Office of Consumer Affairs, Business Regulations
10 Park Plaza, Suite 5170
Boston, MA 02116

(617) 973-8700 (Voice), (617) 973-8790 (TTY)

Website: <http://www.mass.gov/consumer/>

ZONING

Massachusetts Zoning Law, Access Ramps G.L. c. 40A § 31B

Access ramps used as an entrance or exit for a person with a disability take precedence over zoning lot size or set back requirements. The ramp must comply with AAB standards.

Massachusetts Zoning Laws, General and Community Residences G.L. c. 40A § 31A

Local land use and health and safety provisions may not discriminate against persons with disabilities. Specific mention is made of community residences, which may only be subjected to restrictions that apply to all residential dwellings of a similar size.

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